

Appl. No. 10/719,842
Amdt. dated Jan. 20, 2005
Reply to Office action of Nov. 5, 2004

REMARKS/ARGUMENTS

The Examiner has indicated that claims 1 and 8 as filed are rejected under 35 U.S.C. 112, see page 2, item 1 of the action.

Applicant has amended claim 1 as suggested by the Examiner deleting the term "registerably" and changing the language to read wherein said activation arm functions as a fulcrum for said handle shaft when said jaw is in a closed position.

The Examiner has rejected claims 1, 4, 5, 7, 8, 9 and 10 as filed under 35 U.S.C. 102(b) as being anticipated by Camp, see page 3 of the action beginning in item 4. It is respectfully submitted that claim 1 as now amended introduces the additional limitation concerning specific structural elements of the invention that are clearly not anticipated by Camp reference as the Examiner has stated for the following reasons.

Applicant's jaw support element is now "angularly offset to the longitudinal axis of said handle shaft extending from the shaft at its distal end".

Additionally, claim 1 has been amended to further delineate the structural orientation of the activation arm 31 of applicant's invention in claim 1 as follows, "an activation arm pivotally secured to and extending from said handle shaft in spaced relation to said jaw support element adjacent the distal end of said handle shaft".

It is respectfully submitted that Camp's jaw support element 14 is actually a longitudinally axial extension of the main handle portion 12 and since the stationary jaw 28 of Camp is affixed to the end of same, there is no structural or now claimed similarity between the Camp reference and applicant's amended claims.

The Examiner has now set forth specific basis of rejections for each of the claims beginning in item 5, page 3 for claim 4 which has now been amended as set forth above to read "wherein said movable jaw assembly comprises a jaw portion and a lever portion in transverse and spaced planar relationship to said jaw support element".

Claim 5 has been erased without prejudice.

As to claim 7 rejection, the same has been amended to further delineate and more specifically define the nature of applicant's claimed invention as follows in part, "an open position and a closed position in response to movement of said handle shaft relative said activation arm when engaged with a ground surface".

Regarding the rejection of claim 8 which depends from claim 7, it has also been amended concerning the nature of the fulcrum wherein "said activation arm functions as a fulcrum for said handle shaft when engaged on said ground surface and when said jaw is in a closed position".

Concerning Examiner's rejection of claim 9, item 9, page 4, claim 9 has also been amended by applicant in part as follows "said jaw assembly to said angularly offset jaw support comprises a coil spring".

Regarding the rejection of claim 10 on page 4, item 10, it is submitted that claim 10 which depends from claim 1 includes the limitations set forth herein

which as amended distinguishes itself over the Camp reference as noted above in which Camp fails to show an activation arm (Examiner's reference to 46 of the reference) as being engageable on a ground surface and being adjacent said jaw surface as well as the orientation as now claimed of the jaw support element being angularly offset as noted and the jaw assembly being pivotally secured in a transverse and spaced planar relationship to said jaw support element, etc.

The Examiner has rejected claims 1 and 3 under 35 U.S.C. 102 as being anticipated by Rodriguez stating on page 5, item 12 having a handle 30, shaft 12, a jaw engagement portion comprising a jaw support element having angular frame 10, vertical plate 46, hinge barrel 22 connected to a back plate 48, etc.

It is respectfully submitted that Rodriguez fails to show this applicant's amended claims which now specifically set forth a jaw support element being angularly offset to the longitudinal axis of said handle shaft in which the jaw assembly is pivotally secured to the jaw support element in transverse and spaced planar relation thereto and most importantly interconnected to an activation arm which is pivotally secured to and extends from the handle shaft in spaced relation to said jaw support element adjacent the distal end of said handle shaft, see amended claim 1, and wherein "a connecting rod extends from said jaw assembly to said activation arm". It is respectfully submitted that none of the references cited by the Examiner is there any indication of an independent activation arm being pivotally secured to the main handle portion which engages a ground surface and correspondingly provides jaw activation through the connecting rod extending from the jaw assembly to the activation rod, see claim 1, upon movement of the "handle

shaft relative said activation arm when engaged with a ground surface", see amended claim 7, so that the weed can be engaged in the jaw and more importantly in which the corresponding activation arm functions as a fulcrum for the handle shaft for removing the weed.

There simply is no comparable structure illustrated, described, referred to or deemed obvious by multiple references cited by the Examiner.

It is important to note that the key element of applicant's device which defines its novelty is the claimed activation arm which not only closes the jaw about the weed when moving the handle portion forward, but acts as a fulcrum to extract the weed as clearly set forth and described in the specification and illustrated in the drawings and now supported by the claims which is not evident in these references as noted.

It is therefore respectfully submitted that the claims as now amended are in condition for allowance and the same is requested.

Respectfully submitted,

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